

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MICHAEL TORRESCANO,

Plaintiff,

v.

MARCUS GOODWATER; CITY OF  
WALLA WALLA; MICHELLE  
MORALES, WALLA WALLA  
COUNTY; JOHN/JANE DOE agents  
of CITY OF WALLA WALLA; and  
JOHN/JANE DOE agents of WALLA  
WALLA COUNTY,

Defendants.

NO. 4:22-CV-5049-TOR

ORDER DENYING MOTION FOR  
RECONSIDERATION

BEFORE THE COURT is Plaintiff's Motion for Reconsideration. ECF No. 30. This matter was submitted for consideration without oral argument. The Court has reviewed the record and files herein and is fully informed. For the reasons discussed below, Plaintiff's Motion for Reconsideration is denied.

1 A court may alter or amend a judgment if the motion seeking such relief is  
2 filed no later than 28 days after the entry of judgment. Fed. R. Civ. P. 59(e).  
3 Motions for reconsideration are generally disfavored. “Reconsideration is  
4 appropriate if the district court (1) is presented with newly discovered evidence, (2)  
5 committed clear error or the initial decision was manifestly unjust, or (3) if there is  
6 an intervening change in controlling law.” *Sch. Dist. No. 1J, Multnomah Cty., Or.*  
7 *v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). “There may also be other,  
8 highly unusual, circumstances warranting reconsideration.” *Id.* at 1263. In ruling  
9 on a Rule 59(e) motion, the court has “considerable discretion.” *Turner v.*  
10 *Burlington N. Santa Fe R. Co.*, 338 F.3d 1058, 1063 (9th Cir. 2003).

11 Plaintiff, in particular, objects to the dismissal of all state law claims with  
12 prejudice pursuant to California statutes regarding immunity. ECF No. 30 at 2.

13 First, the Court dismissed Plaintiff’s privacy claim because:

14 Plaintiff contends his California privacy rights were violated by  
15 the execution of a search warrant on his cellphone. ECF No. 1 at  
16 29. The trial court issued a warrant for the seizure of Plaintiff’s  
17 cellphone. Defendants were therefore allowed to seize and  
18 inspect his cellphone. While Plaintiff claims the Defendants  
“executed an illegal search warrant under false pretenses” he  
provides no facts supporting these assertions. The warrant was  
upheld by the trial court. This claim is dismissed.

19 ECF No. 28 at 10. Plaintiff has not properly plead a claim for privacy with  
20 sufficient facts. Plaintiff never argued that Washington law applied. Only later did

1 the Court alternatively indicate that California's immunity statute also provides a  
2 basis to dismiss this claim. Plaintiff provides no facts to support his assertion that  
3 Defendants executed an illegal search warrant under false pretenses. This claim  
4 was properly dismissed.

5 Next, the Court dismissed the intentional infliction of emotional distress  
6 claim because all the alleged conduct fell far below conduct "so extreme as to  
7 exceed all bounds of decency in a civilized community". ECF No. 28 at 11.  
8 Plaintiff did not plead sufficient facts to support this claim under the law. Only  
9 later did the Court alternatively indicate that California's immunity statute also  
10 provides a basis to dismiss this claim. This claim was also properly dismissed.

11 Plaintiff's final state law claim was for negligence under California law.  
12 ECF No. 28 at 11. Plaintiff now contends that Washington substantive law applies  
13 because the California District Court held so, even though Plaintiff's complaint  
14 clearly alleges California law applies. See ECF No. 30 at 4 n.2. Plaintiff never  
15 previously plead in his complaint that Washington law applied. Additionally, the  
16 California District Court never so held. The California District Court only  
17 observed, while discussing transferring venue, that:

18 [T]he Complaint asserts causes of action based on California  
19 State law: (1) Invasion of Privacy; (2) Intentional Infliction of  
20 Emotional Distress; and (3) Negligence. . . . Because this case  
appears to involve California and Washington law, this factor is  
neutral regarding transfer.

1 ECF No. 8-1 at 17.

2 In any event, Plaintiff's negligence action is based on the use of a search  
3 warrant to obtain Plaintiff's cell phone and the taking of his deposition. Both those  
4 actions are allowed under the law and Plaintiff has not established a breach of a  
5 duty owed which would support his negligence claim. This claim was properly  
6 dismissed.

7 The Court finds it did not commit clear error nor make a manifestly unjust  
8 decision. Absent any other highly unusual circumstances, the motion to reconsider  
9 is denied.

10 **ACCORDINGLY, IT IS HEREBY ORDERED:**

11 Plaintiff's Motion for Reconsideration, ECF No. 30, is **DENIED**.

12 The District Court Executive is directed to enter this Order and furnish  
13 copies to counsel.

14 DATED January 9, 2023.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE  
United States District Judge